



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2012-0278]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 5 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2012-0278 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the Federal Register on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief,
Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA,
Department of Transportation, 1200 New Jersey Avenue, S.E., Room W64-224,
Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through
Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” FMCSA can renew exemptions at the end of each 2-year period. The 5 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

James R. Atherton

Mr. Atherton, age 64, has had amblyopia in his right eye since childhood. The best corrected visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, “I feel that Mr. Atherton has sufficient vision to drive a commercial vehicle as long as he follows all the recommended restrictions.” Mr. Atherton reported that he has driven tractor-trailer combinations for 37

years, accumulating 2.7 million miles. He holds an operator's license from Indiana. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; failure to obey a traffic signal.

Jose S. Chavez

Mr. Chavez, 47, had a rupture in his left eye due to an injury sustained in 1984. The best corrected visual acuity in his right eye is 20/20, and in his left eye, hand motion vision. Following an examination in 2011, his ophthalmologist noted, "I certify, in my medical opinion, that this patient has sufficient vision to perform the driving test required to operate a commercial vehicle and a waiver should be done, because I am aware of that normally you have to have two eyes unless you have a waiver; but he has been doing this for many years without an accident and he is a very reliable and careful driver." Mr. Chavez reported that he has driven tractor-trailer combinations for 22 years, accumulating 3.3 million miles. He holds a Class A Commercial Driver's License (CDL) from Arizona. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Christopher K. Foot

Mr. Foot, 46, has a prosthetic right eye due to traumatic injury sustained in 1970. The best corrected visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, "Based on his excellent vision in the left eye and his long history of driving commercial vehicles, it is in my medical opinion that he has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle." Mr. Foot reported that he has driven straight trucks for 4 years, accumulating 312,000 miles. He holds a Class B CDL from Nevada. His

driving record for the last 3 years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by 10 mph.

Patrick J. McMillen

Mr. McMillen, 50, has scarring in his left eye due to histoplasmosis sustained in 1991. The best corrected visual acuity in his right eye is 20/25, and in his left eye, 20/200. Following an examination in 2012, his optometrist noted, "It is my professional opinion that the defect in Mr. McMillen's left eye will not and has not affected his ability to operate a motor vehicle safely, whether commercial or private." Mr. McMillen reported that he has driven straight trucks for 12 years, accumulating 12,000 miles, and tractor-trailer combinations for 24 years, accumulating 960,000 miles. He holds a Class A CDL from Wisconsin. His driving record for the last 3 years shows no crashes but one conviction for speeding in a CMV; he exceeded the speed limit by 15 mph.

Gary B. Shipler

Mr. Shipler, 66, has retinal damage in his right eye since age 13. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, "In my opinion he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Shipler reported that he has driven straight trucks for 4 years, accumulating 120,000 miles. He holds an operator's license from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice.

The Agency will consider all comments received before the close of business [Insert date 30 days after date of publication in the FEDERAL REGISTER]. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: September 19, 2012

Larry W. Minor
Associate Administrator for Policy

[FR Doc. 2012-23681 Filed 09/25/2012 at 8:45 am; Publication Date: 09/26/2012]